

## Electronic Commerce Issues

The U.S. Government seeks to use international and regional fora to build a consensus in favor of a minimalist, predictable international trade environment for e-commerce. Work programs regarding electronic commerce are underway or being developed in a number of international trade and regional fora. The WTO and, to a lesser extent the OECD Trade Committee, are the principle fora for defining and pursuing U.S. goals and objectives regarding the international, trade-related aspects of e-commerce. Three regional initiatives (APEC, FTAA and TEP) may also be helpful in developing these goals and objectives.

Broader e-commerce issues, such as privacy, content filtering and labeling, etc., are also addressed in some of these fora and in non-trade fora such as the OECD Committees on Fiscal Affairs and Information, Computer & Communications Policy, UNCITRAL and WIPO.

### What are Trade-Related Aspects of E-Commerce

The "Framework for Global Electronic Commerce" (released in July 1997) identifies a range of issues that need to be addressed in order to facilitate the growth of electronic commerce. Among these, the issues of tariffs, the creation of a seamless global marketplace, and opposition to standards becoming non-tariff barriers to trade can be considered as directly related to the trading system. Included in this set of issues are the tasks of enforcing the commitments made in WTO (including in basic telecom and financial services), seeking binding commitments on duty-free cyberspace, preventing the creation of technical trade barriers, ensuring nondiscriminatory access for network and services providers and ensuring the free flow of commerce.

The following provides a brief overview of e-commerce work in the WTO, OECD and the three regional fora.

WTO At the May 1998 Ministerial Conference, the WTO called for the establishment of a work program on the trade related aspects of electronic commerce. The details of this work program must be ironed out by September 1998. Among the questions that could be raised are the following:

- ! should the various WTO bodies and committees (such as the General Council, Services Council, Goods Council and TRIPs Council), as part of their preparations for 1999, consider the need for recommendations regarding electronic commerce and current WTO disciplines and regarding the role of e-commerce in strengthening the multilateral system?
- ! should we examine how e-commerce affects the rights & obligations contained in WTO agreements (including whether different or new rights & obligations are needed for e/commerce) and at how e/commerce can expedite and simplify the procedures used to implement WTO obligations?
- ! should we examine the issue of whether electronic transmissions are only goods or services or constitute a new "product," which could be labeled "digitalized information?"

OECD/Trade Committee The Trade Committee will conduct analysis to help build consensus on the role of electronic commerce in strengthening the multilateral trading system, as well as address useful issues that might not be taken up by the WTO. The questions that come up regarding the possibilities

for initial work in the Trade Committee include:

- ! is there a need for analysis clarifying the potential impact of e-commerce on the structure (“modes of supply”) of commitments in the GATS?
- ! should the OECD develop case study analysis of products actually supplied over the Internet -- are there examples of products distinct from either goods or services?
- ! is there a need for work aimed at improving e-commerce trade statistics? and
- ! do we want the OECD Trade Committee to hold workshops for developing countries on the value of e-commerce trade to their economies?

FTAA: Expert Committee In the Ministerial Declaration of San Jose, Ministers established a joint government-private sector Committee of Experts on Electronic Commerce to offer recommendations to Ministers “in order to increase and broaden the benefits to be derived from the electronic marketplace.” Questions that arise when considering the work of this Committee include:

- ! how can we increase understanding of the potential benefits of electronic commerce?
- ! how could we work to identify and support the environment that will allow electronic commerce to flourish?
- ! what additional infrastructure questions need to be discussed?
- ! how does electronic commerce influence the operation of trade obligations?
- ! how can we maximize the effectiveness of private sector participation in this committee?

TransAtlantic Economic Partnership: Bilateral E-Commerce Work In December 1997, the US-EU agreed a “Joint Statement on E-Commerce” which contains a number of action items of which six are trade related. Questions in this area include:

- ! should we focus on eliminating unnecessary legal and regulatory barriers?
- ! is it best to focus on promoting voluntary standards that enhance interoperability, innovation, and competition?
- ! is there scope in this forum to advance work toward binding commitments on global duty-free transmissions?
- ! what work needs to be done to implement GATS Agreement on Basic Telecommunications Services and complete second Information Technologies Agreement (ITA II)?
- ! what are the ways that e-commerce can facilitate trade?

APEC Ad Hoc Task Force on E/Commerce The Task Force is undertaking substantive work or coordinating with APEC working groups as appropriate in a number of important policy areas:

- ! what initiatives would be helpful in terms of education and research regarding e-commerce?
- ! what is the scope for economic and technical cooperation to further the expansion of e-commerce?
- ! are there issues relating to expansion of infrastructure and Internet access that could usefully be examined?
- ! is there a need for assistance for Small and Medium-sized Enterprises interested in engaging in e-commerce?
- ! what steps might be useful in terms of building consumer/user confidence and trust?

## ATTACHMENT

### Comprehensive WTO GEC Work Program:

The WTO Declaration directs the establishment by the General Council of a comprehensive work program on the trade-related aspects electronic commerce. The U.S. believes that under this work program, various WTO bodies (such as the General Council, Services Council, Goods Council and TRIPs Council) would be instructed, as part of its preparations for 1999, to prepare recommendations regarding electronic commerce and current WTO disciplines and regarding the role of e/commerce in strengthening the multilateral system.

-- **General Council:** provide general coordination of the preparations undertaken by the various bodies and committees, including discussion of cross cutting issues.

-- **Council on Trade in Goods:** As a first step, the Goods Council could seek the views of its respective committees on the current use of electronic commerce (e.g., with respect to notifications and enhancing transparency) and on where the WTO could be strengthened through the use of electronic commerce.

Examples include: facilitating customs transactions, complying with the requirements for TBT and SPS (where new standards and government health, safety and consumer protection regulations are developed), facilitating further tariff negotiations (through the use of electronic commerce for data collection, analysis, and the loose leaf system), and enhancing the opportunities for small and medium-sized businesses, particularly in developing countries, to take advantage of electronic commerce in a WTO-consistent fashion.

-- **Committee on Government Procurement:** The Committee is already addressing improvements that would streamline the administrative burdens of the Agreement. One area singled out for work is the use of e/commerce with respect to bid opportunities.

-- **Council on Services:** Consideration of market access and nondiscriminatory treatment for providers of network, content, and information services; review of the effect on the 'modes of delivery' framework incorporated in GATS; also examination of express package delivery services, with a view to including this aspect in the GATS 2000 negotiations.

-- **TRIPS Council:** Whether to incorporate in the WTO the obligations contained in the two treaties agreed by the World Intellectual Property Organization (WIPO) in December 1996; and investigation of whether other changes may be required in order to stay current with technological advances in this area.

-- **Committee on Trade and Development:** Explore possible avenues to enhance technical cooperation utilizing e/commerce, including facilitating developing country participation in further trade negotiations and in meeting their implementation commitments.

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